

STATE BAR OF CALIFORNIA
COMMISSION FOR THE REVISION OF THE RULES
OF PROFESSIONAL CONDUCT

OPEN SESSION AGENDA

Friday, March 16, 2007
(9:15 am - 5:00 pm)

SF–State Bar Office
180 Howard Street, Room 8-B
San Francisco, CA 94105

[NOTE RE MEETING SITE: Members of the public who wish to attend this meeting are asked to call Audrey Hollins at 415-538-2167.]

IMPORTANT E-MAIL DEADLINE:

Agenda items III.A through C are designated as “**Consent Items.**” Each consent item will be deemed approved and will not be discussed at the meeting unless an item receives at least 6 written objections from Commission members received by Monday, **March 5, 2007.**

For all other agenda items, only issues raised in e-mails sent by the deadline of Wednesday, **March 7, 2007**, will be considered at the meeting. If no issues are raised, the recommendations of the drafting team set forth in an agenda item may be deemed approved. NOTE: The issues to be discussed for items that have been carried over or items that have failed a 10-day ballot are limited to the issues previously raised.

I. APPROVAL OF OPEN SESSION ACTION SUMMARIES FROM THE DECEMBER 1, 2006 AND JANUARY 26-27, 2007 MEETINGS

(Draft action summary for the December 1, 2006 and January 26-27, 2007 meetings to be circulated prior to the March meeting.)

REMARKS OF CHAIR

A. Chair's Report

(The Chair will provide an oral report on administrative, procedural, or other informational matters.)

B. Staff's Report

(Staff will report on the activities of COPRAC and the Board of Governors.)

III. MATTERS FOR ACTION - CONSIDERATION OF PROPOSED RULES REDRAFTED FOLLOWING PUBLIC COMMENT (BATCH 1) (Name with asterisk is lead drafter, underline indicates a newly added co-drafter. Please note that the Chair has designated items A through C below as "**Consent Items**." Each of these three consent items will be deemed approved for informal submission to the Supreme Court, unless an item receives at least 6 written objections from Commission members received by **March 5, 2007**.)

*Martinez
Tuft
Peck

A. **CONSENT - Proposed Rule 1.0.1. Law Firm Definition**
(Materials enclosed.) ***[pages 1–4]***

*Snyder
Peck
Vapnek
Ruvolo

B. **CONSENT - Proposed Rule 1.1 [Rule 3-110]. Competence**
(Materials enclosed.) ***[pages 5–12]***

*Peck
Foy
Julien
Ruvolo

C. **CONSENT - Proposed Rule 1.8.10 [Rule 3-120]. Sexual Relations With Client**
(Materials enclosed.) ***[pages 13–24]***

*Ruvolo
Mohr
Melchior

D. Proposed Rule 2.4 [Rule 1-720]. Member as Third Party Neutral
[anticipated 1 hour discussion]
(Materials enclosed.) ***[pages 25–78]***

*Foy
Sapiro

- E. Proposed Rule 5.6 [Rule 1-500]. Agreements Restricting a Member's Practice**
[anticipated ½ hour discussion]
(Materials enclosed.) **[pages 79–86]**

*Vapnek
Peck
Tuft

- F. Proposed Rule 8.4 [Rule 1-120X]. Misconduct (Includes Rule 1-120 Assisting, Soliciting, or Inducing Violations)**
[anticipated ½ hour discussion]
(Materials to be circulated prior to meeting.)

*Tuft
Ruvolo
Vapnek
Mohr
Snyder

- G. Proposed Rule 5.1 [Rule 1-310X]. Responsibilities of Partners, Managers, and Supervisory Lawyers**
[anticipated 1 hour discussion]
(Materials enclosed.) **[pages 87–100]**

*Tuft
Ruvolo
Vapnek
Mohr
Snyder

- H. Proposed Rule 5.2 [Rule 1-310X]. Responsibilities of Subordinate Lawyer**
[anticipated ½ hour discussion]
(Matter carried over. Pursuant to the report of the codrafters, please refer to the materials for 5.1. We are not redistributing, but you may want to refer to, the materials for this rule distributed for the January meeting.)

*Tuft
Martinez
Peck
Snyder

- I. Proposed Rule 5.3 [Rule 1-300]. Nonlawyer Assistants**
[anticipated ½ hour discussion]
(Matter carried over. Pursuant to the report of the codrafters, please refer to the materials for 5.1. We are not redistributing, but you may want to refer to, the materials for this rule distributed for the January meeting.)

IV. MATTERS FOR ACTION - CONSIDERATION OF PROPOSED RULES NOT YET DISTRIBUTED FOR PUBLIC COMMENT (ANTICIPATED BATCH 2 OR BATCH 3 RULES)

(Name with asterisk is lead drafter, underline indicates a newly added co-drafter. For items listed below as a “**matter carried over**,” only those issues: (1) previously raised by the drafters (in their original agenda item or any new supplemental materials); or (2) in previously sent e-mail comments from other Commission members will be considered. However, if a Commission member did not previously send a timely e-mail, then that member may seek the support of 5 other members (for a total of 6 members) to make a motion to address an issue or concern that was not previously raised.)

*Lamport

Tuft

Voogd

A. Consideration of Rule 1.8.1 [Rule 3-300]. Avoiding Interests Adverse to a Client

[anticipated ½ hour discussion]

(Materials enclosed.) **[pages 101–110]**

*Sapiro

Kehr

Melchior

Martinez

B. Consideration of Rule 2-300 [ABA MR 1.17] Sale or Purchase of a Law Practice of a Member, Living or Deceased

[anticipated 1 hour discussion]

(Matter carried over. Previously circulated materials enclosed.)

[pages 111–142]

*Mohr,

Julien

Peck,

Selegue,

Tuft

C. Consideration of Rule 3-100 [ABA MR 1.6 & 1.8(b)] Confidential Information of a Client

[anticipated ½ hour discussion]

(Matter carried over. New materials from drafters enclosed.)

[pages 143–172]

*Voogd/Kehr,

Julien

D. Consideration of Rule 4-210 [ABA MR 1.8(e)] Payment of Personal or Business Expenses Incurred by or for a Client

[anticipated ½ hour discussion]

(Matter carried over. Previously circulated materials enclosed.)

[pages 173–176]

*Vapnek,

Ruvolo,

Voogd,

E. Consideration of Rule 4-200 [ABA MR 1.5] Fees for Legal Services

[anticipated ½ hour discussion]

(Matter carried over. Previously circulated materials enclosed.)

[pages 177–194]

*SeLeague
Kehr
Melchior

- F. Consideration of Rule 3-310 [ABA MR 1.7, 1.8, 1.9, 1.10, 1.11] Avoiding the Representation of Adverse Interests**
[anticipated 1 hour discussion]
(Materials enclosed.) **[pages 195–242]**

*SeLeague
Kehr
Melchior

- G. Consideration of Rule 1.2.1 [Rule 3-210] Advising the Violation of Law**
[anticipated ½ hour discussion]
(Materials enclosed. **NOTE:** This agenda item was circulated for a 10-day ballot with a deadline of February 26, 2007. By the deadline, at least six members of the Commission objected to approval by 10-day ballot and requested that the rule be placed on the agenda. Discussion of this rule will be limited to those issues raised in response to the 10-day ballot.)
[pages 243–256]